## REMARKS

This Amendment and Response is in reply to the Office Action of March 6, 2007. A three (3) month Petition For Extension of Time is filed concurrently herewith. Therefore, the time period for reply extends up to and includes September 6, 2007. Applicants wish to thank the Examiner for the Examiner's careful review of the application. Applicants also thank the Examiner for the indication that claims 57-59 are allowed, and that claims 73-90 would be allowable if rewritten in independent form.

### Claim Objections

At paragraph 2 of the Office Action the Examiner objected to claims 73-90 because of informalities. Accordingly, Applicants have amended claims 73-90, deleting the word "A" and inserting the word "The" in each of these claims. Applicants submit that claims 73-90 are in allowable form and request that the objections to claims 73-90 be withdrawn.

### Claim Rejections under 35 USC § 101

At paragraph 4 of the subject Action, the Examiner rejected claims 15 and 78-79 under 35 U.S.C. § 101, stating that the claimed invention is directed to non-statutory subject matter. Applicants respectfully traverse the rejections.

According to MPEP section 2106.1, "functional descriptive material consists of data structures and computer programs which impart functionality when employed as a computer component." "When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases." Claim 15 of the present application recites a "computer readable memory medium for storing a program for an apparatus." In addition, claims 78-79 recite the "computer readable memory medium according to claim 15." Therefore, it is submitted that claims 15 and 78-79 meet the statutory requirements stated in MPEP section 2106.1 and constitute statutory subject matter. Accordingly, it is requested that the 35 U.S.C. § 101 rejections for claims 15 and 78-79 be withdrawn.

### Claim Rejections under 35 USC § 102

At paragraph 6 of the subject Action, claims 1, 8 and 15 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6, 377,545 (Onyiagha). Applicants respectfully traverse the rejections.

First, Onyiagha does not disclose specifying a probability parameter in regard to a "downstream buffer" for receiving output packet traffic as recited in claim 1 of the present application. Onyiagha discloses an asynchronous transfer mode (ATM) device comprising at least one buffer (see Onyiagha, claim 1). Therefore, in Onyiagha, the buffer is internal to the ATM device and is not downstream from it. Figure 1 of Onyiagha shows ATM layer adapters 20 that serve as interfaces between LAN traffic sources 22 and an ATM switch 24. Figure 2 of Onyiagha shows a pRAM controller 40 on the input of layer adapter 20. The pRAM controller 40 includes buffers 44. In Onyiagha, pRAM controller 40 monitors the number of cells in the buffers 44 and determines whether cells can be allowed into the switch and thereby sent onto the network (see Onyiagha, column 3, lines 48-54). Thus, the buffers 44 are internal to the pRAM controller in the ATM device and are not "downstream buffers." By contrast, in the present application, the probability parameter is specified in regard to a downstream buffer (see page 36, lines 2-8 of the present application).

Second, Onyiagha does not disclose imposing a "predetermined" limit on burstiness of the output packet traffic as disclosed in claim 1 of the present application. In Onyiagha, the neural network learns the variation of the data transition probability over time, in order to predict the pattern of incoming information (see Onyiagha, column 3, lines 3-4). This is a disclosure of traffic adjustment on a real-time basis and is not a disclosure of a "predetermined" limit on burstiness of the output packet traffic. In Onyiagha, the pRAM controller 40 monitors the number of cells in the buffers 44, and takes into consideration the expected arrival rate of future cells. If a subscriber transmits cells which go beyond those which the network provider has agreed to accept, the neural network determines whether those cells can be allowed to access the switch or be discarded (see Onyiagha, column 3, lines 51-55). This is a disclosure of traffic adjustment on a real-time basis and is not a disclosure of a "predetermined" limit on burstiness of the output packet traffic. In Onyiagha, policing can be adaptive. The controller can determine whether incoming traffic that violates quality of service parameters can be granted access to the network (see Onyiagha, column 4, lines 10-12). This is a disclosure of traffic adjustment on a real-time basis and is not a disclosure of a "predetermined" limit on burstiness of the output

packet traffic. Indeed, there is no disclosure in Onyiagha of imposing a "predetermined" probabilistic limit on burstiness as recited in claim 1 of the present application. By contrast, the present application discloses constraining traffic (i.e. limiting burstiness) based on a probability parameter to produce output packet traffic having a "predetermined" entropy bound (see page 13, lines 20-23 of the present application).

Third, since Onyiagha does not disclose all the limitations of claim 1, it is submitted that claim 1 is patentable over Onyiagha. Furthermore, since claims 8 and 15 also recite the limitations of a "downstream buffer" and "imposing a predetermined probabilistic limit on burstiness of the output packet traffic," it is submitted that these claims are also patentable over Onyiagha.

In view of the foregoing, reconsideration and withdrawal of the § 102(e) rejection to claims 1, 8 and 15 is requested. Applicants do not otherwise concede the correctness of the rejections and reserves the right to make additional arguments as may be necessary.

**Claim Rejections under 35 USC § 103**

At paragraph 8 of the subject Action, claims 29, 36 and 43 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6, 377,545 (Onyiagha) in view of U.S. Patent No. 5,381,407 (Chao). Applicants respectfully traverse the rejections.

Claims 29, 36 and 43 all recite the limitations of a "downstream buffer" and "imposing a predetermined probabilistic limit on burstiness of the output packet traffic." As discussed above, Onyiagha does not disclose these claim limitations. It is submitted that the combination of Onyiagha and Chao do not disclose the limitations of a "downstream buffer" and "imposing a predetermined probabilistic limit on burstiness of the output packet traffic" as recited in claims 29, 36 and 43 of the present application. Therefore, it is submitted that claims 29, 36 and 43 are patentable over the combination of Onyiagha and Chao.

In view of the foregoing, reconsideration and withdrawal of the § 103(a) rejection to claims 29, 36 and 43 is requested. Applicants do not otherwise concede the correctness of the rejections and reserves the right to make additional arguments as may be necessary.

## Conclusion

It is respectfully submitted that each of the presently pending claims is in condition for allowance and notification to that effect is requested. The Examiner is invited to contact Applicants' representative at the below-listed telephone number if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted,

MERCHANT & GOULD
P. O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 336-4755

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By _____
Brian H. Batzli
Reg. No. 32,960